

**379 MINERAL AND AGGREGATE OVERLAY DISTRICT**

**379-1 Intent and Purpose**

379-1.1 The purpose of the Mineral and Aggregate Overlay District is to protect mineral and aggregate resources for future use, to provide for the development and utilization of resources currently needed for economic development consistent with the requirements of LCDC statewide Goal 5 and to regulate resource extraction and processing activities to balance their impact on existing adjacent land uses.

379-1.2 The intent of the Mineral and Aggregate Overlay District is to:

- A. Provide for public awareness of existing and potential mineral and aggregate resource extraction and processing activities;
- B. Establish clear and objective operational standards for the extraction and processing of mineral and aggregate resources;
- C. Simplify the review and permit processes for mineral and aggregate resource extraction and processing activities;
- D. Ensure the reclamation of lands after mineral and aggregate resources extraction activities are completed;
- E. Balance significant Goal 5 resources when evaluating and designating new mineral and aggregate sites; and
- F. Protect significant aggregate resources from new conflicting uses.

**379-2 Application of the Mineral and Aggregate Overlay District**

379-2.1 The Mineral and Aggregate Overlay District shall consist of two distinct elements, District A and District B.

379-2.2 "District A" may be applied only in the FD-20, FD-10, EFU, EFC, AF-20, AF-10, AF-5, RR-5, MAE, R-IND and IND Districts.

379-2.3 "District B" may be applied to any Land Use District.

**379-3 Elements of the Mineral and Aggregate Overlay District**

379-3.1 District A:

Mineral and Aggregate Overlay District A shall be applied to sites upon which extraction, processing and stockpiling activities are currently undertaken and to sites which may be identified for extraction, processing and stockpiling activities in the future. A District A site may consist of one or more tax lots or portion(s) of single tax lots. A District A designation may be applied only to those primary Land Use Districts identified in Section 379-2.

## 379-3.2 District B:

Mineral and Aggregate Overlay District B shall be applied to properties or portions of properties adjacent to or within one-thousand (1,000) feet of all District A sites except when District A sites are located inside of or within one-half mile of the Regional Urban Growth Boundary, in which case District B shall also include all those properties designated as urban within one-half mile of a District A site except where the County has no jurisdiction. The extent and location of District B shall be directly dependent upon the extent and location of District A and shall be determined at the time a District A site is proposed and designated.

**379-4 Designation of Mineral and Aggregate Overlay District**

379-4.1 The Mineral and Aggregate Overlay District may be applied on the Comprehensive Plan Maps through the initial legislative planning process, the plan update process or through a legislative plan map amendment under the policies set forth in the Comprehensive Plan and the criteria contained in Section 379-4.2.

379-4.2 Notwithstanding the provisions of this Code, an application for a Mineral and Aggregate Overlay District designation through a Type IV legislative plan amendment process may be initiated by the owners, contract purchasers or authorized agent of the owner or contract purchasers of a proposed District A site and shall be based upon the following criteria:

- A. A demonstration of conformance with the applicable policies and strategies of the Comprehensive Plan;
- B. A report from a certified geologist, mining engineer or qualified engineering testing firm verifying the location, type, quality and quantity of mineral and/or aggregate resources. The quality of the aggregate resource shall meet the following minimum requirements:
  - (1) Abrasion (AASHTO T96)                      Loss of not more than 30% by weight;  
(OSHD TM 211)
  - (2) Oregon Air Degradation                      Loss of not more than 30% by weight;  
(OSHD TM 208)
  - and
  - (3) Sodium Sulphate Soundness                      Not more than 12% by weight;  
(OSHD TM 206)
- C. A demonstration of conformance with the dimensional requirements in Section 379-13.1;
- D. If the proposed District A is within or adjacent to an EFU, EFC or AF-20 land use district, submittal of the following required findings is necessary:
  - (1) The proposed use will not:

- (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
- (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

An applicant may demonstrate that these standards for approval will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective;

- (2) The applicant has signed a waiver of the right to remonstrate against commonly accepted farm or forest practices; and
  - (3) In the EFC District, the proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
- E. A report identifying all potential and mapped conflicting uses including farm and forest uses, dwelling units, and significant natural and cultural resources;
- F. If existing conflicting uses are identified, the applicant shall provide a program based upon the economic, social, environmental and energy consequences analysis that will minimize any negative effects of the mineral and aggregate resource related activities on the identified conflicting uses; and
- G. A report from a certified geologist, engineer or hydrologist examining the potential impact of mineral and aggregate resources on groundwater supplies and wells in the surrounding area.

### **379-5 Exemptions from the Mineral and Aggregate Overlay District Regulations**

379-5.1 The following mineral and aggregate related activities addressed in OAR 632-30-016 are exempt from the provisions of Section 379, except in the EFU and AF-20 Districts. Operators or landowners claiming any of these exemptions may be asked to establish the validity of the exemption by providing a copy of an exemption certificate issued by the Department of Geology and Mineral Industries.

- A. Mining, quarrying, crushing, screening or washing of extracted materials used exclusively for the construction of access roads. To maintain this exemption, no more than five thousand (5,000) cubic yards of material may be removed during any consecutive twelve (12) month period. Such excavations greater than six-thousand (6,000) square feet shall be subject to the provisions of Section 410, Grading and Drainage.
- B. Excavation or grading operations conducted in the process of farming or cemetery operations. To maintain this exemption, no more than five-thousand (5,000) cubic yards of material may be used for another purpose during any period of twelve (12) consecutive months.
- C. Excavation of mineral and aggregate materials from the beds and banks of any waters in the County when conducted pursuant to a permit issued under ORS 541.605 to 541.660 by the Division of State Lands.

- D. On-site construction operations within a County approved construction site.
- E. Surface mining operations which involve less than five-thousand (5,000) cubic yards total material disturbance and/or less than one (1) acre of ground during any consecutive twelve (12) month period and are used strictly for on-site purposes. Such excavations greater than six-thousand (6,000) square feet shall be subject to the provisions of Section 410, Grading and Drainage.
- F. Exploratory excavations for mineral and aggregate resources which involve less than five-thousand (5,000) cubic yards total material disturbance and/or less than one (1) acre of ground. Mineral exploration activities which do not exceed the "5,000 cubic yards and/or 1 acre of land" threshold criteria at any one area are exempt until the total area affected equals one (1) acre for each eight (8) acres prospected or explored or a total of five (5) acres, whichever is first. Such exploratory excavations disturbing more than six-thousand (6,000) square feet shall be subject to the provisions of Section 410, Grading and Drainage.
- G. Excavation operations conducted within a road right-of-way or other easement for the primary purpose of road construction, reconstruction or maintenance.

379-5.2 In the EFU and AF-20 Districts, the following mineral aggregate related activities addressed in ORS 215.298 are exempt from the provisions of Section 379.

- A. Mining for no more than one-thousand (1,000) cubic feet of material or excavation preparatory to mining of a surface area of more than one acre. To maintain this exemption, no more than five-thousand (5,000) cubic yards of material may be used for another purpose during any period of twelve (12) consecutive months; and
- B. Excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or nonsurface impacts of underground mines.

**379-6 Uses Permitted Through a Type I Procedure in District A**

Uses permitted through a Type I procedure in the Primary Land Use District except those uses defined as noise sensitive uses, subject to the applicable standards as set forth in Article IV and Section 379-13 and 379-14.

**379-7 Uses Permitted Through a Type II Procedure in District A**

The following uses are permitted subject to the applicable standards as set forth in Article IV and Sections 379-13 and 379-14.

- 379-7.1 Mining or quarrying operations for the extraction of rock, clay, soil, sand, gravel or other minerals;
- 379-7.2 The following uses when in conjunction with a mineral and aggregate extraction operation:

- A. Crushing, washing and screening of mineral and aggregate materials;
  - B. Stockpiling of mineral and aggregate materials and earth products;
  - C. An office, shop or other accessory structure used for the management and maintenance of mineral and aggregate extraction and processing equipment;
  - D. Sale of products produced from a mineral and aggregate extraction and processing operation;
  - E. One detached dwelling unit (may be a manufactured dwelling) and accessory structures for a caretaker or watchman;
  - F. Asphalt batch plant, except in the EFU and AF-20 Districts;
  - G. Concrete batch plant;
  - H. Asphalt batch plant in the EFU or AF-20 Districts, except when located within two (2) miles of a planted vineyard. Batch plants approved on or before October 3, 1989, or a subsequent renewal of an existing approval, are exempted from this limitation and may be located within two (2) miles of a vineyard; and
  - I. Storage of equipment or machinery and supplies necessary for mineral and aggregate extraction or processing.
- 379-7.3 Noise sensitive uses otherwise allowed through a Type I procedure in the Primary Land Use District; and
- 379-7.4 Uses permitted through a Type II procedure in the Primary Land Use District.
- 379-8 Uses Which May Be Permitted Through a Type III Procedure in District A**
- Uses which may be permitted through a Type III procedure in the Primary Land Use District, subject to the applicable standards as set forth in Article IV and Section 379-13 and 379-14, and as may be conditioned by the Review Authority.
- 379-9 Uses Permitted Through a Type I Procedure in District B**
- Uses Permitted Through a Type I Procedure in the Primary Land Use District except those uses defined as noise sensitive uses, subject to the applicable standards as set forth in Article IV.
- 379-10 Uses Permitted Through a Type II Procedure in District B**
- The following uses are permitted subject to the applicable standards as set forth in Article IV.
- 379-10.1 Noise sensitive uses allowed through Type I and Type II procedures in the Primary Land Use District subject to the applicable standards in Section 379-14.
- 379-10.2 Uses otherwise permitted through a Type II procedure in the Primary Land Use District.

379-10.3 The affected quarry operator and quarry owner shall be notified of Type II actions pursuant to Section 204-3.

**379-11 Uses Which May be Permitted Through a Type III Procedure in District B**

379-11.1 Uses which may be permitted through a Type III procedure in the Primary Land Use District, subject to the applicable standards as set forth in Article IV and Section 379-14, and as may be conditioned by the Review Authority.

379-11.2 The affected quarry operator and quarry owner shall be notified of Type III actions pursuant to Section 204-4.

**379-12 Prohibited Uses**

Structures or uses not specifically authorized by Section 379.

**379-13 Development Standards - District A**

An applicant shall submit a plan for a mineral and aggregate resource extraction site, prepared by a certified geologist, mining engineer, engineering testing firm or other qualified personnel, which demonstrates compliance with the following standards:

379-13.1 Dimensional Requirements

A. Lot Area:

The minimum area shall be that necessary to meet setback requirements in Section 379-13.1 B.

B. Setbacks:

(1) Mineral and aggregate extraction

- (a) One-hundred (100) feet from any District A boundary.
- (b) Five-hundred (500) feet from a noise sensitive use existing at the time this District was applied.
- (c) When a District A boundary abuts another District A boundary or a designated mineral or aggregate resource in an adjacent county, no setback for mineral and aggregate extraction is required along the common boundary line.

(2) Processing of mineral and aggregate materials

- (a) Five-hundred (500) feet from any District A boundary.
- (b) Seven-hundred and fifty (750) feet from a noise sensitive use existing at the time this District is applied.

(3) Office, shop or other accessory structure

- (a) Fifty (50) feet from an exterior property line.
- (b) One-hundred (100) feet from a noise sensitive use existing at the time this District is applied.
- (4) Detached dwelling unit or manufactured dwelling and related accessory structures for a caretaker or watchman.
  - (a) Fifty (50) feet from the front property line.
  - (b) Ten (10) feet from a side or rear property line.
- (5) Storage of operational or non-operational equipment for the production and/or processing of mineral and aggregate materials.
  - (a) Fifty (50) feet from any District A boundary.
  - (b) One-hundred (100) feet from a noise sensitive use existing at the time this District is applied.
- (6) Storage of overburden to be saved for reclamation uses may be allowed within setbacks subject to conformance with the reclamation plan.

C. Height:

The maximum height of any structure, except mineral and aggregate processing equipment, shall be thirty-five (35) feet.

D. Signs:

Maximum sign area shall not exceed thirty-five (35) square feet per entrance.

379-13.2 Screening and Fencing

- A. Adequate screening with indigenous plantings shall be preserved or established, wherever possible, to screen the view of the site and all related equipment from any public road, urban land use district and any existing noise sensitive use located within one-thousand (1,000) feet of the site. The appropriate type of screening and buffering in Section 411 shall be determined by the Review Authority. For the purpose of determining the appropriate screening and buffering type, mineral and aggregate extraction shall be considered an industrial use.
- B. Fencing shall be required to eliminate any safety hazards that use of site may create for adjacent land uses. When fencing is required to eliminate a safety hazard, it shall be of cyclone type, a minimum of six (6) feet high. The location of fencing to eliminate a safety hazard shall be determined by the Review Authority.

379-13.3 Access

- A. All private access roads from mineral and aggregate sites to public highways, roads or streets shall be paved or graveled. If graveled, the access road shall be

graded and oiled as needed during the period from June to September to minimize dust.

- B. If access from a mineral and aggregate site uses graveled public highways, roads or streets, the Review Authority shall require the mineral and aggregate site operator to grade and oil these roadways regularly to the extent needed to minimize impacts on adjacent land uses.
- C. An effective vehicular barrier or gate shall be required at all access points to the site.

#### 379-13.4 Hours of Operations

- A. Blasting shall be restricted to the hours of 9:00 a.m. to 6:00 p.m., Monday through Friday. No blasting shall occur on Saturdays, Sundays or the following holidays:
  - (1) January 1
  - (2) Memorial Day
  - (3) July 4
  - (4) Labor Day
  - (5) Thanksgiving Day
  - (6) December 25
- B. The Review Authority may grant exceptions to the hours of operation for those mineral and aggregate extraction operations that are subject to restricted operating hours through a Type II procedure pursuant to the following:
  - (1) There are no noise sensitive uses located within one-thousand (1,000) feet of the mining site; or
  - (2) If noise sensitive uses are located within one-thousand (1,000) feet of the mining site, the increased activity will not exceed noise standards established by the Department of Environmental Quality; or
  - (3) In the case of blasting, the operator shall be responsible for notifying noise sensitive uses within one-thousand (1,000) feet by first class mail which is mailed at least ninety-six (96) hours prior to the date and approximate time of the blasting activity for which the operator receives an exception.
- C. The Review Authority may grant exceptions to the hours of operation for those mineral and aggregate extraction operations that are subject to restricted operating hours through a Type I procedure when additional hours of operation are needed to accommodate increased production to alleviate a public emergency. A public emergency includes damage to public road or structure which requires significant amounts of aggregate for repair or rebuilding.

379-13.5 Environmental Standards

Mineral and aggregate resource extraction, processing and stockpiling shall conform to the applicable standards as set forth in Section 423, Environmental Performance Standards. The applicable noise and emission standards on the effective date of this Ordinance shall be those adopted by the Oregon Department of Environmental Quality as set forth in Oregon Administrative Rules, Chapter 340, dated June 1983. The Board may consider future revisions to these standards. Said revisions may be adopted by the Board by Resolution and Order after a Type III hearing with a generalized notice to all owners of record within two-hundred and fifty (250) feet of District "B" boundary.

379-13.6 Safety Standards

- A. All buildings, structures, and equipment used for the production or processing of mineral and aggregate materials shall be maintained in such a manner to assure that such buildings, structures and equipment will not become hazardous.
- B. Access to all mineral and aggregate sites shall be gated and locked when not in operation.

379-13.7 Site Reclamation

A site reclamation plan (prepared in conjunction with a State of Oregon surface mining operating permit) which demonstrates that the mineral and aggregate extraction site will be reclaimed for the land uses specified in the Primary District shall be submitted. The reclamation plan shall be prepared by the applicant or the applicant's agent and approved by the State of Oregon Department of Geology and Mineral Industries pursuant to ORS Chapter 517, and the standards and procedures contained in OAR Chapter 632, Division 30 or Division 35, whichever is applicable.

379-13.8 Performance Agreement

- A. The operator of a mineral and aggregate site shall provide the County sufficient evidence on an annual basis that the operator has in full force and effect the bond or security deposit required by ORS 517.810 to assure conformance with the State-required reclamation plan. Failure of the applicant to maintain the required bond or security deposit shall constitute a violation of Section 379.
- B. Mineral and aggregate operations shall be insured for \$500,000.00 against liability and tort arising from production activities or operations incidental thereto conducted or carried on by virtue of any law, ordinance or condition and such insurance shall be kept in full force and effect during the period of such operations. A prepaid policy of such insurance which is effective for a period of one year shall be deposited with the County prior to commencing any mineral and aggregate operations. The policy shall be renewed annually with proof of renewal deposited with the County annually. Failure to deposit such policy or to maintain continual insurance coverage shall constitute a violation of Section 379.

**379-14 Development Standards - District B**

In addition to the development standards required by the primary land use district, the establishment of noise sensitive uses and the creation of new parcels that are

eligible for a dwelling within Mineral and Aggregate Overlay District B shall be subject to the following.

#### 379-14.1 Setbacks

The location of new noise and dust sensitive uses, constructed after the establishment of District B, shall be situated on the parcel to minimize potential adverse effects of noise and dust. The location of new noise and dust sensitive uses shall take into consideration the surrounding topography and transportation system and, if necessary, setbacks greater than those required by the primary land use district may be imposed by the Review Authority.

#### 379-14.2 Noise Reduction Measures

Noise reduction measures may be required of the owners of new noise sensitive uses constructed after the establishment of District B when determined by the Review Authority to be necessary to ensure compliance by the District A use with applicable noise regulations. Noise reduction measures may include, but not be limited to, vegetative buffers, berms, walls, insulation and orientation of windows, and shall be determined by the Review Authority.

#### 379-14.3 Waiver of Remonstrance

Prior to issuance of any building permits for new noise sensitive uses after establishment of this District, the owner shall sign and record, in agreement form, in the Deed and Mortgage Records of the County, a waiver of remonstrance that the occupant of the property will not object to mineral and aggregate resource extraction and processing activities as provided for in District A.

#### 379-14.4 Creation of New Lots or Parcels

A notation shall be placed on the instrument creating a new lot or parcel which states the lot or parcel is within Mineral and Aggregate District B and is subject to the standards of Section 379, Mineral and Aggregate Overlay District.

### **379-15 Review and Enforcement**

#### 379-15.1 Initial Review

A. Initial Review of a mineral and aggregate resource operation shall be processed as a Type II action.

#### 379-15.2 Six Month Review

A. Within six (6) months of commencing a mineral and aggregate resource extraction and processing operation, the operator shall submit appropriate evidence, prepared by qualified personnel, documenting that the operation conforms to the standards contained in Section 379-13 and other applicable standards imposed by the Review Authority.

B. Should the documentation required by Section 379-15.2 A. indicate that the operation does not conform to the applicable standards, the operator shall be

given sixty (60) days in which to make necessary modifications. Should the operator fail to make the necessary modifications within the allotted sixty (60) day period, the Planning Director shall begin revocation proceedings as outlined in Section 201-7.

379-15.3 Periodic Review

- A. Following the initial review of operations required in Section 379-15.1 B., any permit issued to operate a mineral and aggregate operation pursuant to Section 379 shall be reviewed every five (5) years from the date of the initial review to determine whether additional conditions are necessary to bring the operation into compliance with the applicable land use regulations. Notwithstanding this periodic review, the permit may be reviewed by the Director at any time deemed necessary to update the conditions due to amendments to the requirements of this District or primary land use district at the time of the original approval, or if evidence exists that the operation is not in compliance with the conditions of approval. Should it be determined that an operation is not in compliance with the conditions of approval, the Director shall begin revocation proceedings as outlined in Section 201-7.
- B. The Planning Director shall send a notice by first class mail to the operator no less than sixty (60) days prior to the date of the scheduled periodic review.
- C. Periodic review of a mineral and aggregate resource operation shall be processed as a Type II action.

379-15.4 Enforcement

The Planning Director or his/her authorized designee, or a duly authorized peace officer, may issue a Uniform Citation for violation of Section 379, as provided for in Section 215, Enforcement.

**379-16 Termination of a Mineral and Aggregate Overlay District Designation**

A Mineral and Aggregate Overlay District (A and B) Designation shall be removed from a mineral and aggregate resource site when:

- 379-16.1 The mineral and aggregate resource site has been reclaimed in accordance with the provisions of ORS Chapter 517; OAR Chapter 632, Division 30 or Division 35, whichever is applicable; and Section 379.
- 379-16.2 The owner of the Mineral and Aggregate resource site submits evidence showing the Mineral and Aggregate Overlay District is no longer justified or needed. Such a request shall be processed as a Type IV action.

**379-17 Nonconforming Uses and Uses Established by Conditional Use Permit**

Notwithstanding other provisions of this Code, the following provisions shall be applicable to District A:

- 379-17.1 All existing mineral and aggregate related uses not conforming to the provisions of Section 379 may continue to operate according to the provisions of Section 440,

Nonconforming Uses. Notwithstanding the provisions of Section 440, any application for expansion of a nonconforming mineral and aggregate related use shall apply for a Type II development permit according to the provisions of Section 379.

- 379-17.2 All mineral and aggregate related uses allowed previously by the County by conditional use permit and designated as a District A site shall continue to operate in accordance with the conditions of approval and need only apply for a Type II development permit at the time of review of conditions. At the time of review of conditions, the mineral and aggregate related use shall not be required to comply with the setback or lot size requirements of this District to the extent that such imposition would interfere with the existing established mineral and aggregate related use on the site.
- 379-17.3 All mineral and aggregate related uses nonconforming to the provisions of Section 379 as well as all mineral and aggregate related uses allowed previously by the County by conditional use permit, shall immediately have to comply with the following provisions of Section 379 except as provided in 379-17.4 below:
- A. 379-13.4 Hours of Operation
  - B. 379-13.5 Environmental Standards
- 379-17.4 The County finds that these requirements are necessary for the health, safety and environmental protection of the public. Any requirement of 379-13.4 (Hours of Operation) or 379-13.5 (Environmental Standards) that would unlawfully interfere with the vested right of a nonconforming use to continue shall be inapplicable to the nonconforming use; however, if violation of any requirement of 379-13.4 or 379-13.5 by a conforming or nonconforming use results in a nuisance, action may be brought to abate it.
- 379-17.5 All new mineral and aggregate related uses must comply with the provisions of Section 379.